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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201049 4*

ENG

Torture in Sri Lanka

1. Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) determines that any act of torture or other cruel, inhuman or degrading treatment is an offence to human dignity to be condemned as a breach of the Charter of the United Nations and a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights. Notwithstanding, the practice of torture in Sri Lanka is widespread and persistent. The Asian Legal Resource Centre has witnessed several recent cases of torture by police in Sri Lanka, as follows.

   At about 8pm on 6 October 2001 three police officers and some other men in uniform came to the house of Mr. Namal Fernando, 37, a full-time social worker and father of three children from Pitipana Duwa, Negombo. The police took Mr. Fernando away without reason, to Mundalama police station, about 70km away. At the station one police officer assaulted him with his hands and feet and then put him inside a cell. A Catholic priest, Gerard Jayawardene, came to the police station and inquired after the reason for Mr. Fernando's arrest. The assaulting police officer said that Mr. Fernando had threatened him by putting a pistol against his head. After that the Officer in Charge and four other officers took him to Wennupuwa and again assaulted him. There two police pressed him to the ground with their feet while another pointed a gun at him, saying that if the gun fired he would say he had shot because the prisoner had tried to escape. After they took him to another house and hit his chest and knees with a gun butt. Finally he was taken to the office of the Senior Police Superintendent at Chilaw and on 7 October back to Mundalama police station, where an officer took a statement from him and told him that he had been taken into custody regarding a robbery. Only at that stage was Mr. Fernando informed of the charges for the first time. At 8:30pm he was produced before a magistrate and remanded in custody, but he was released the next day without charge. It appears his arrest was due to mistaken identity.

   On 24 March 2001 Mr. Uchitha Thussara Kumara, 33 years old, married and the father of two children, was tortured to death at Ja-ela police station. Officers from there had arrested Mr. Kumara using a warrant for a minor offence. He was sent to the remand prison in Negambo on the evening of the same day. When his family made inquires about him on 26 March they learned that he had died and that the remand authorities had informed the Ja-ela police about the death, with an instruction to inform the family, which they had failed to do. The area magistrate visited the remand prison to see the body and made an order that it be sent for examination by the judicial medical officer of the Ragama Hospital. This examination has been completed and the sealed report sent to court. The family, on making inquiries, found that the medical officers' report states that the death was due to internal injuries. The family is of the view that the injuries were caused at the police station before the prisoner was handed over to remand custody.

   Mr. L. P. Maithreepala Senadira, a resident of Pansalgodella, Galamuna, was taken into custody at 3am on 7 January 2001 by the Polannaruwa tourist police on suspicion of selling illicit alcohol. The police had allegedly gone to the suspect's house and demanded liquor and when told that there was none the victim was blindfolded and taken to the police jeep. When the wife objected she was threatened with forceful removal by Sub-Inspector Manawadu of Polannaruwa and told to remain inside. The two brothers of Maithreepala Senadira were also taken into custody. At the Polonnaruwa police station, Maithreepala Senadira was tied to a pillar, his clothes removed, and he was beaten with a pipe and sticks by Sub-Inspector Manawadu. His sexual organs were severely injured and the bleeding was so serious he was taken to the Polonnaruwa hospital by the torturer himself, where his injuries required six stitches and his back and spine showed signs of

severe beatings. The officer had threatened his victim to keep the incident a secret. For this reason Mr. Senadira was transferred from Polonnaruwa hospital to Peradeniya hospital.

2. The Government of Sri Lanka ratified the CAT in January 1994 and passed it into domestic legislation in the same y ar, making torture punishable by imprisonment for a term not less than seven years. Despite the existence of this legislation, violations continue with impunity, while a handful of cases are reportedly pending in the courts. To date, the police officers having committed these crimes have not been arrested or brought before a court.

3. It is sad that the Sri Lankan police force has acquired a very low reputation at home and abroad. One of the reasons is the failure to prosecute these cases. The Asian Legal Resource Centre urges the Government of Sri Lanka to investigate all allegations of torture and effectively implement the CAT without delay. The Centre also urges the international community, through the Commission, to pursue the Government of Sri Lanka to this end.